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Chairman: Mr. Al Bayati ..... (Iraq)

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The meeting was called to order at 3.10 p.m.

Agenda item 67: Promotion and protection of human rights (*continued*) (A/61/36, 97, 220 and 280)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/61/276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526)

1. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), introducing her report (A/61/469), said that it covered the two missions she had conducted to the Sudan in 2006. She said that, in spite of the signing of the Comprehensive Peace Agreement, the adoption of the Interim National Constitution and the Interim Constitution of Southern Sudan in 2005, and while the Sudanese had a great desire for democratic transition, there had been significant delays in the implementation of the Agreement. Furthermore, violations of the Constitution and international human-rights law had led to growing disappointment and a lack of confidence in the willingness of the parties involved in the conflict for real change. Discrimination and marginalization of certain groups continued and basic rights such as access to food, shelter, health and education were not guaranteed.

2. There had also been serious delays in the harmonization of legislation with the Interim National Constitution, which recognized international human-rights standards, and the Interim Constitution for Southern Sudan. Law reform was required without delay, through consultation with a broad spectrum of society, to ensure that the reforms would respond to the needs of victims and society in general.

3. The situation in Darfur had sharply deteriorated despite the signing of the Darfur Peace Agreement. The Government, allied militia and rebel groups continued to commit serious violations of international human rights and humanitarian law, and Darfur-based militia were attacking civilians across the border in Chad and the Central African Republic.

4. The Government of the Sudan had failed to comply with its human-rights obligations under international law and had not implemented United Nations recommendations.

5. Thousands of Sudanese troops had been deployed to Darfur in clear violation of the ceasefire agreements, the Darfur Peace Agreement and Security Council resolution 1591 (2005). Thousands of persons had been displaced and had found little safety in the refugee camps, owing to the presence of militia and armed groups.

6. In southern Sudan, the human-rights situation remained fragile, in particular with regard to the enjoyment of social and economic rights. The lack of human and financial resources in that region affected the right to education, health, housing and development and the establishment of the rule of law. Returnees and internally displaced persons faced enormous difficulties, and outside towns, insecurity continued owing to the presence of armed groups.

7. On 14 October, the Government and the Eastern Front had signed an agreement in Asmara, Eritrea, which she hoped would lead to a just resolution of the conflict in eastern Sudan.

8. The right to life continued to be violated in Darfur, and many parts of the region were inaccessible to humanitarian-relief workers, leaving communities without vital food and health relief. Rape and sexual violence against women continued, and perpetrators were seldom brought to justice.

9. Justice and reconciliation were key to a sustainable peace; and ending impunity and ensuring accountability should be of the utmost importance. She called on the Government of the Sudan to fully cooperate with the International Criminal Court, to which the Security Council had referred the situation in Darfur, and to ensure that those responsible for international crimes were brought to justice.

10. There had been a noticeable crack-down on human-rights defenders, lawyers, journalists and members of political opposition parties in the reporting period; the space for freedom of expression, association and assembly was closing.

11. Internally displaced persons living in camps and informal settlements were prime targets for police abuse, including extortion. She was also concerned about the forced relocations conducted, such as for Soba in May 2005 and Dar Assalam in August 2006, in violation of international standards.

12. Immediate priority should be given to effective human-rights protection and humanitarian assistance to vulnerable populations in Darfur, without overlooking the situation in southern and eastern Sudan and other parts of the country. She reviewed a number of recommendations contained in her report.

13. **Mr. Abdalhaleem** (Sudan) said that the three visits made to the Sudan by the Special Rapporteur were clear evidence of the Sudan's readiness to cooperate with international human-rights agencies. The many international human-rights instruments to which the Sudan was signatory had been listed in the report (A/61/469). But the assertions in the report about the slow pace of implementation of the Comprehensive Peace Agreement were inaccurate. The Special Rapporteur had had ample opportunity to visit various parts of the country and observe the great strides that had been made since the signing of the Agreement towards its implementation. It would have been more appropriate for her to focus on urging the international community to fulfil the commitments made at the Oslo donors' conference in order to ensure continued progress in reconstruction, human rights and the resolution of outstanding issues.

14. The determination of the Sudan and its people to overcome the ravages of decades of war had been further illustrated by the Darfur Peace Agreement and the establishment of a number of mechanisms to implement it, including reconciliation and compensation measures, facilitation of international humanitarian efforts, and the submission of a working plan to the African Union for disarming the militias. There were also ongoing efforts, which the international community should support, to pressure armed groups that had not yet signed that Agreement to do so.

15. The Sudanese judicial authority, noted for its independence, was investigating serious crimes and violations of international humanitarian law in Darfur, and had established several special tribunals which regarded no one as above the law and had already convicted some uniformed soldiers and Government officials. The Office of the High Commissioner for Human Rights had sent a letter welcoming steps taken by the Sudan to bring such violators to justice. To combat violence against women in Darfur, an action plan had been launched that included the dispatch of female police officers and a unit to combat violence against women.

16. What the report had to say about eastern Sudan was old history which the people who lived there had already put behind them. In June 2006 the Government and the Eastern Front had signed an agreement in Eritrea that arranged for power and revenue sharing. He was pleased to announce that the Government of the Sudan had ended the state of emergency in eastern Sudan as of the previous day. Furthermore, the Special Rapporteur's characterization of the suffering caused to residents by the construction of the Merowe Dam (ibid., para. 37) had been greatly exaggerated. In fact, an agreement on land compensation satisfactory to all had been reached, and the people of the Sudan looked forward to the agricultural and energy benefits that the dam would begin to provide when it opened in 2008.

17. Great strides had also been made in harmonizing national laws with the Interim National Constitution. Both the National Constitutional Review Commission and the legislative authority had begun to review laws for amendment. The new Organization of Humanitarian and Voluntary Work Act had recently been signed into law.

18. All those efforts were being made with the goal of ensuring that human rights were constitutionally protected for all citizens. The international community should fulfil its assistance commitments, cancel the Sudan's debts, and provide funds for reconstruction and development projects. The Government reaffirmed its readiness to cooperate on human rights and its commitment to implementing the peace agreements, that being the only way to ensure that peace and security would prevail throughout the Sudan.

19. **Mr. Al-Sada** (Yemen) said that, while the human-rights situation in the Sudan was clearly a matter of concern, it was equally clear that the Government was willing to resolve the situation through consultation and dialogue. The Sudanese factions should be given an opportunity to find a solution internally, and to convince the factions that had not acceded to the Darfur Peace Agreement to do so, albeit with the cooperation of the international community, so as to

enable the Sudanese people to reach a sustainable peace.

20. **Mr. Attiya** (Egypt) said that the report of the Special Rapporteur seemed to contain political nuances better dealt with in other committees, and language that closely reflected that from other reports, such as to the Security Council. Furthermore, he wondered why a report had been prepared for the current session of the General Assembly when, under her mandate, she was requested to report on the matter at the sixty-second session.

21. **Ms. Kohli** (Switzerland) said that her delegation was highly concerned about the continuing deterioration of the human-rights situation in Darfur. The repeated violations of international humanitarian law and human-rights law seriously compromised the consolidation of peace in the Sudan. In that regard, she called for all parties involved in the conflict to respect their obligations under international humanitarian and human-rights law and to do their utmost to protect the civilian population and guarantee the safety of humanitarian workers.

22. She wondered whether the Special Rapporteur could point out the main political, economic and logistical factors that might impede implementation of the recommendations made to the warring parties, and what role the international community could play to that end.

23. **Ms. Hastaie** (Islamic Republic of Iran) said that the positive response of the Government of the Sudan to the Special Rapporteur's visits illustrated its eagerness to continue the ongoing dialogue to help resolve the conflict. The Special Rapporteur had mentioned the human-rights violations perpetrated by the rebel groups, but she wondered whether human-rights violations had also been perpetrated by other parties, which would add to the complexity of the conflict, and whether she had recommendations to make to those parties.

24. **Mr. Guo** Jiakun (China) said that he welcomed the level of cooperation that the Government of the Sudan had demonstrated with regard to the Special Rapporteur and the sincerity of its efforts to cooperate with the international community in addressing the human-rights situation in the Sudan. China hoped that the situation in Darfur would be resolved as soon as possible, and that the dialogue for a lasting peace would continue.

25. **Ms. Rainne** (Finland), speaking on behalf of the European Union, said that she strongly supported the mandate of the Special Rapporteur and welcomed the cooperation that had been established with the Sudanese authorities during her country visits. In the light of reports that violence against women and children — including sexual and gender-based violence committed by warring groups in the region — was reaching alarming levels, she wished to know what priority measures the Special Rapporteur would recommend that the Member States, and the Government of the Sudan in particular, should take to end that scourge and the culture of impunity in the Sudan.

26. She also wished to know whether the Government of the Sudan had taken up measures to address the deteriorating situation on matters relating to the freedom of expression and of the press.

27. **Ms. Halabi** (Syrian Arab Republic) said that her delegation welcomed the efforts of the Government of the Sudan to implement the Comprehensive Peace Agreement through cooperation with the international community, and the progress it had made in such a short period of time. The fact that rebel groups had stepped up acts of violence to impede the peace process should be seriously addressed through means other than pointing fingers at the Government of the Sudan, which was trying to protect its national security and territorial integrity against such aggression. She wondered whether the Special Rapporteur could comment on that, stressing that the media tended to exaggerate when reporting on the human-rights situation in the Sudan.

28. **Mr. Cumberbatch Miguén** (Cuba) said that, in looking into the root causes of the conflict in the Sudan, there seemed to be a clear intention to divide the country into various parts. He hoped that the questions being raised about the recommendations of the Special Rapporteur would not be construed to mean there was a need for external intervention; instead, he called for increased dialogue among the parties involved. He wished to know from the Special Rapporteur which parties had been resisting the conclusion of an agreement for a lasting resolution to the conflict.

29. **Ms. Abubaker** (Libyan Arab Jamahiriya) said that the report illustrated the commitment of the Government of the Sudan to fulfilling its obligations

under the relevant international human-rights instruments and its willingness to cooperate, as evident from the various peace agreements it had signed, including for southern Sudan. In that regard, there was no need for external intervention. Reconstruction would take time, and in that regard, Arab countries and the entire world should lend its support to the Sudan to help in its reconstruction, development and security efforts.

30. **Mr. Al-Muqhim** (Saudi Arabia) said that the statement made by the representative of the Sudan was an indication of the willingness of the Sudanese Government to cooperate with the international community and honour its obligations to improve the human rights situation in the country. Nevertheless, that would require time, especially as the Sudan was going through a difficult period. The international community must therefore give the Government of the Sudan the necessary support for its efforts to improve the situation.

31. **Mr. Jean** (Canada) said that his Government shared many of the concerns voiced by the Special Rapporteur regarding the human rights situation throughout the Sudan and the need for full implementation of the three peace agreements. Canada was particularly concerned by the ongoing sexual and gender-based violence, which had intensified in recent months, particularly in Darfur. The limited efforts of the Sudanese Government, involving the establishment of state committees, specialized police units and an action plan to address the violence in Darfur, had been largely ineffective. He would therefore like information on the role which might be played by the Office of the High Commissioner for Human Rights (OHCHR) and the international community in making such initiatives more effective.

32. **Mr. Al Saif** (Kuwait), commending the efforts made by the Special Rapporteur to finalize her report, paid tribute to the transparency shown by the Government of the Sudan, which had permitted the Special Rapporteur to visit the country on three occasions. More effective action was needed to improve the situation, particularly in Darfur, but obstacles were preventing the Sudanese Government from achieving peace throughout the country. His delegation condemned all forms of violence and human rights violations in Darfur and called for the full implementation of all the peace initiatives in the Sudan. He drew attention to a League of Arab States resolution in support of the African Union Mission in the Sudan (AMIS). Lastly, his delegation welcomed the signing in October 2006 of the Eastern Sudan peace agreement, which it hoped would form the basis for the restoration of peace in the Sudan.

33. **Ms. Abdelhak** (Algeria), welcoming the Special Rapporteur's report, commended the spirit of cooperation which the Sudanese Government had shown to facilitate her mission. The tragic humanitarian situation was closely linked with three interrelated factors: peace and security, development, and human rights. The conflict which had been ravaging the Sudan for some time and the obstacles to development were exacerbating the situation. The international community should focus on the causes and assist the Sudanese Government in implementing the peace agreements. It must also exert its influence on the militias which had not signed those agreements.

34. The Special Rapporteur had stated that the Darfur Peace Agreement had not brought about peace, but perhaps it was premature to make that judgement at such an early date.

35. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), replying to questions, reiterated her appreciation to the Sudanese Government for its cooperation and openness during her three visits. Owing to time constraints, she had not mentioned all the positive steps taken by the Sudanese Government, which were reflected in the report. In her statement, she had only had time to address the urgent human rights issues.

36. Concerning the comment made by the delegation of the Sudan about the judiciary, she said that, while it might be functional in Khartoum, in Darfur she had found only two prosecutors for more than 1 million persons. She had been told that they did not have sufficient human and financial resources to tackle the issues of justice throughout the region. Furthermore, prosecutors were unwilling to go to the region, because of the dire situation there. It had recently been announced, however, that there would be eight prosecutors.

37. Regarding sexual and gender-based violence, there were indeed three State committees and an action plan for the elimination of violence against women. In Western Darfur, however, they were not functional. Elsewhere, they suffered from a lack of staff and

resources; very few perpetrators of gender-based violence had ever been brought to justice.

38. With respect to the question raised by Cuba, those who might not wish to bring peace to the Sudan included various actors within the Sudanese Government. The Comprehensive Peace Agreement had succeeded in stopping the fighting between the south and the north. More steps needed to be taken, however. There were delays in implementation of the timetables established under the Agreement. Concerning the Darfur Peace Agreement, while relatively little time had elapsed since its signing in May 2006, it should have helped to improve the security situation; that situation, however, had grown worse since that date. Fighting continued between the Sudanese Government and the rebels, with civilians caught in between.

39. Concerning her mandate, like those of the other special rapporteurs it had been extended by the new Human Rights Council. That was why she was presenting her report at the current meeting. She was not politically motivated, as her Government had no interests in the Sudan. Her own interest lay in carrying out the mandate entrusted to her.

40. She had insisted on the need for support from the international community. Darfur had a strong need for technical and financial support for the implementation of the Comprehensive Peace Agreement. The international community should therefore support the Government and people of the Sudan in addressing their security and human rights problems. More financial and logistical support should be given to the African Union to enable it to provide more protection. Sexual and gender-based violence in Darfur had arisen because the African Union had been unable to fully meet its responsibilities. Furthermore, the Sudanese must do more to end the prevailing culture of impunity.

41. **Mr. Attiya** (Egypt) said that he must have been misunderstood. He was aware that the Special Rapporteur was an independent expert working in the field. He was not calling into question her expertise or capabilities. He wished to say that the report should have been presented in 2005. Everyone was seeking ways to implement the Security Council resolution. Presenting the report at the current time was a means of exerting pressure on the Sudanese Government, but there was wide consensus on the need for quiet diplomacy.

42. The report before the Committee might have been filtered more beforehand to eliminate many of its political aspects, including political forecasts. He drew attention to paragraph 83 of the report, which stated that all the signs suggested that there would be an escalation of violence in the coming months. He doubted whether any political figure would make such a prediction and deplored seeing it in a United Nations report.

43. **Mr. Ceinos-Cox** (United States of America) said he would welcome hearing the views of the Special Rapporteur on the takeover by the United Nations Mission in the Sudan (UNMIS) of responsibility from the African Union Mission in Sudan (AMIS) for implementation of the Darfur Peace Agreement upon the expiration of the AMIS mandate.

44. He would also like to know how many of her recommendations had been implemented in a way which would have an impact on the ground.

45. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), reviewing her mandate, recalled that she had been appointed in September 2005. She had made a statement on 27 October 2005 before the Committee; she had had no time beforehand to write a report. She had paid only a short visit to the Sudan a week before that meeting. She had submitted her report to the Commission on Human Rights, prior to that body's transition to the Human Rights Council. The Council had decided to extend the mandate of all the special rapporteurs. She had been required to submit her report during the current session.

46. **Mr. Abdalhaleem** (Sudan) said that one lesson which had emerged from the current discussion was the importance of dialogue and cooperation. His Government was determined to strengthen dialogue and cooperation with the international community. It would continue to pursue implementation of the three peace agreements. His Government was committed to the welfare and security of the Sudanese people.

47. **Mr. Pacéré** (Independent Expert on the situation of human rights in the Democratic Republic of the Congo), introducing his report (A/61/475), said that, while the end of 2005 and first quarter of 2006 had been dominated by the run-up to the presidential and legislative elections, there had also been frequent gross violations of human rights. The first round of elections, in July 2006, would remain a milestone in the history

of the Republic. Nevertheless, the announcement of the results had provoked bloody disturbances.

48. The humanitarian situation was a matter of serious concern. Various threats of violence had caused the forced displacement of people and created war refugees. Lack of security had prevailed throughout all regions of the country since the start of 2006. The head of the National Human Rights Observatory had narrowly escaped an armed attack at his home in June 2006. A large number of cases of sexual violence and torture had been reported by the OHCHR field office in March 2006 (ibid., para. 95). The prevalence of such crimes was exacerbated by continuing impunity, and immediate action was needed to address the situation.

49. The mistreatment of children, not only in conflict zones but also in everyday social life, was also deeply troubling, particularly that of child soldiers and children accused of witchcraft.

50. The shortage of judges and magistrates and the lack of infrastructure within the justice system presented a continuing obstacle to the administration of justice and to the country's capacity to address social imbalances and build peace. Swift and wide-ranging action with the continued involvement of the international community and the International Criminal Court was needed to address those limitations and combat increasing impunity and crime.

51. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) said that, while the report of the Independent Expert (A/61/475) accurately reflected the prevailing situation, the events on the ground were changing rapidly and there had been a number of recent positive developments that might go in some way towards allaying the concerns reflected in the report. For example, President Kabila and Vice-President Bemba had signed a reconciliation agreement declaring Kinshasa a weapon-free city. Furthermore, on 17 October 2006, an agreement governing good conduct among electoral candidates had been signed. All necessary measures had been taken to ensure that the violent disturbances of August 2006 would never be repeated.

52. The report was correct to draw attention to the continuing lack of security and to sexual violence and other human rights violations committed by the regular armed forces and the militias that were still active in the east of the country. It was important, however, to avoid treating the armed forces, responsible for defending the national territory and for ensuring order and security, in the same way as militias and other armed groups, which received much of their funding through exploitation of natural resources and were operating illegally in parts of Congolese territory under strong foreign influence. It should also be noted that most of the abuses had been committed by a number of renegade soldiers within the armed forces who had formerly belonged to rebel movements.

53. Large quantities of arms and munitions were entering the Democratic Republic of the Congo without restriction, chiefly from neighbouring States, and were used by those militias and armed groups. Responsibility for such trafficking lay not only with those neighbouring States, but also with manufacturing countries and those that transported the weapons into the Republic.

54. All State institutions were concerned by the scale, frequency and seriousness of acts of sexual violence and understood the need to prevent, suppress and punish such crimes and ensure proper care for the victims. To that end, in August 2006, Parliament had adopted a law against sexual violence. The law amended the Criminal Code by incorporating rules of international humanitarian law relating to crimes of sexual violence, and provided for the protection of victims of such crimes. The successful prosecution of crimes, including rape, in a number of cases mentioned in the report had given fresh impetus to efforts to address the shortcomings of the justice system, and gave reason for hope.

55. The transition process would continue to move forward. The scenes of violence observed and the potential pitfalls that still lay ahead were part of the growing pains of the Third Republic. Five hundred deputies had been elected to Parliament in free and democratic elections, and candidates for the Senate were already campaigning for election. Regarding the reform of the judiciary (ibid., para. 146), the recent promulgation of the Law on the Status of Magistrates was a positive step, since it enshrined the principles of independence of the judiciary and the separation of powers, bringing an end to the interference of politics in judicial affairs. Judicial practice was already being brought into line with those changes.

56. In order to ensure the success of the transition to peace and democracy, it was essential to ensure the administration of justice and to combat impunity. His

delegation therefore endorsed the recommendations of the Independent Expert, particularly the establishment of an international criminal tribunal for the Democratic Republic of the Congo or joint criminal chambers within existing Congolese courts.

57. **Mr. Cabral** (Guinea-Bissau) expressed his deep concern at the dismal situation reported by the Independent Expert, particularly since that account had been largely corroborated by the representative of the Democratic Republic of the Congo, although the more recent positive developments described gave some reason for hope. It was also of great concern that impunity continued to be a major problem, and that issue should be examined in greater depth by the United Nations and all those who were working untiringly and productively to address the situation.

58. The organization of elections alone, however fair, transparent and credible they might be, was insufficient to strengthen democracy. Citizens should be able to feel that they were respected, have confidence in the justice system, enjoy freedom of expression and of movement and participate freely in the country's management without fearing for their lives.

59. It was clear that much remained to be done. The authorities to be established following elections should make every effort to ensure that full democracy reigned throughout the country. Guinea-Bissau would undertake unceasing efforts to ensure greater assistance for the Democratic Republic of the Congo so as to enable democracy to flourish and to ensure the availability of resources, inter alia for the creation of jobs and schools.

60. **Ms. Kalamaki** (Finland), speaking on behalf of the European Union, commended the cooperation of the Congolese authorities with United Nations mechanisms in the area of human rights in strengthening good governance and the rule of law.

61. She asked the Independent Expert how he evaluated the current situation regarding the electoral process in the light of the acts of violence committed in August 2006, and how it might be possible to ensure that that process was peaceful and conducted in a spirit of reconciliation and national consensus. In that regard, it would be useful to have information on the Code of Conduct for the electoral process.

62. Lastly, she asked the Independent Expert for his opinion regarding the proposed law establishing a national human rights institution, which several parliamentarians had pledged to adopt and which was advocated also by civil society.

63. **Mr. Pacéré** (Independent Expert on the situation of human rights in the Democratic Republic of the Congo), responding to the question regarding the electoral process, said that despite allegations of fraud, contested results in some areas and the regrettable events of August 2006, it was important to recognize the achievements of the process — such as high voter turnout during the first round of elections — as well as its setbacks, and the fact that the ballot remained credible.

64. Civil laws and other arrangements had been put in place to ensure good conduct during future elections. In that regard, he asked the representative of the Democratic Republic of the Congo to clarify whether the Code of Conduct for the electoral process had in fact been adopted.

65. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) confirmed that the Code of Conduct had been adopted and that the two election candidates were now engaging in dialogue. Such steps gave cause for optimism and hope for further progress.

The meeting rose at 5.15 p.m.